

REMARKS

The Examiner rejected claims 1 and 57 under 35 U.S.C. §102(e) as being anticipated by Tiedemann (U.S. Pat. App. Pub. No. 2005/0135320). The January 28, 2005 filing date of the Tiedemann '320 published application post-dates the January 4, 2002 filing date of Applicants' application. Therefore, the '320 publication is not valid as prior art, and any rejection based on Tiedemann '320 necessarily fails as a matter of law. However, Tiedemann '320 is a divisional application that claims priority from a parent application filed February 15, 2001 having application serial number 09/788,259. As such, Applicant assumes that the Office Action erroneously cites Tiedemann '320, and that the Examiner meant to cite the Tiedemann '259 application. Therefore, the following remarks are based on the Tiedemann '259 application. However, even in light of this earlier filing date, Tiedemann fails to anticipate the claimed invention.

The claimed invention includes claims directed to a mobile station (claims 1, 32, and 57) and a base station (claims 25 and 78). Each independent claim has been amended to include limitations directed to both serving and non-serving base stations that power control different reverse link channels transmitted by the mobile station. Particularly, the serving base station power controls only a first reverse link channel, while one or more non-serving base stations participate in power controlling a second reverse link channel. This type of power control is critical in situations where the base station must be able to reliably receive one of the mobile station's reverse link channels (e.g., a rate control channel) regardless of whether that channel is being received by one or more non-serving base stations (e.g., the other Active Set base stations).

Tiedemann teaches controlling different reverse link channels transmitted by a remote terminal based on subdividing a Forward Common Power Control Channel (FPCCH) into a plurality of power control subchannels. That teaching, however, makes no distinction between a

serving base station and a non-serving base station, and in fact, there is no mention of a serving base station or a non-serving base station in Tiedemann. The only place where Tiedemann discloses the base stations in the Active Set power controlling the remote terminal appears in paragraph 0096 (i.e., p. 9, ¶0098 of Tiedemann '320). Even in this passage, however, Tiedemann does not discern between the serving and non-serving base stations. Tiedemann explicitly teaches using the "OR-of-the-downs" rule for all power control bits from all Active Set base stations. According to both Tiedemann and to Applicants' specification (e.g., Spec., p. 4, ll. 3-6), this rule dictates that if any of the base stations in the remote terminal's Active Set transmits a "down" bit, the remote terminal decreases its transmit power. This teaching of Tiedemann is in direct contradiction with the claimed invention.

Particularly, amended claims 1 and 57 are directed to the mobile station. The mobile station varies a first transmit power level on a first reverse link channel responsive to power control commands from a serving base station. For the purposes of power controlling the first reverse link channel, the mobile station conditionally ignores power control commands from any non-serving base stations. conditionally ignoring power control commands from any non-serving base stations. The mobile station also varies a second transmit power level on a second reverse link channel responsive to power control commands from at least one non-serving base station. Because Tiedemann teaches that the Active Set base stations use the "OR-of-the-downs" rule, and never attempts to distinguish between a serving base station and a non-serving base station, the §102 rejections of claims 1 and 57 fails as a matter of law. Because the independent claims 1 and 57 are patentable over the cited reference, so too are their respective dependent claims.

Claims 25 and 78 are directed to a base station. If the base station is a serving base station, it generates power control commands to power control at least a first reverse link. However, if the base station is not a serving base station, it generates power control commands

to power control only a second reverse link. Thus, only those base stations that are serving base stations power control the first reverse link. As stated above, Tiedemann never attempts to distinguish between a serving and a non-serving base station, and thus, necessarily fails to anticipate claims 25 and 78, or any of their respective dependent claims under §102.

The Examiner also rejected claim 32 under 35 U.S.C. §103(a) as being obvious over Tiedemann in view of Hsu (U.S. Patent No. 6,901,046). Claim 32, which is also directed to a mobile station, has been amended to recite limitations similar to those of claims 1 and 57. However, claim 32 also explicitly recites specific reverse link channel types. For the reasons above, Tiedemann fails to teach, or even suggest, “varying a first transmit power level of the mobile station on a reverse rate control channel responsive to power control commands from a serving base station, while conditionally ignoring power control commands from any non-serving base stations for purposes of power controlling the reverse rate control channel.” The secondary reference Hsu also fails to teach or suggest this element, and the Examiner does not assert otherwise. Thus, the §103 rejection fails as a matter of law.

The Examiner adds Hsu simply because it explicitly mentions a reverse rate control channel and asserts that it would be obvious to utilize this channel in Tiedemann to obtain a particular Quality of Service (QoS). This motivation to combine the references completely overlooks the fact that Tiedemann already uses the Reverse Link Supplemental Channel (R-SCH) to obtain a particular QoS over a reverse link channel. *Tiedemann*, ¶0041. Thus, it is unclear as to what, if anything, Hsu adds to the Tiedemann reference. Even, assuming *arguendo*, that Hsu did add some value to Tiedeman, the §103 rejection would still fail. There is nothing in Tiedemann that teaches or suggests that a serving base station power controls a remote terminal exclusively over this channel (or any other channel). Hsu also fails to teach this exclusivity. Indeed, the proffered motivation is conclusory, and the §103 rejection of claim 32 is based on impermissible hindsight reconstruction. Neither Tiedemann nor Hsu, alone or in

combination, teaches or suggests claim 32 or any of its dependent claims. As such, the §103 rejection fails.

Finally, claims 16, 70, and 82 have been amended without adding new matter to address the minor typographical errors noted by the Examiner. In addition, claims 8, 11, 16, 35, 41, 44, 48, 65, 70, and 78 have been amended to address other minor informalities and to ensure that the language of these claims comports with the language of their respective independent claims. Accordingly, Applicants respectfully request that the Examiner withdraw the objections to claims 16 and 70, and the §112 ¶2 rejection to claim 82.

In light of the foregoing amendments and remarks, Applicants respectfully request that the Examiner withdraw of all rejections and objections, and allow the pending claims.

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Respectfully submitted,

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